**Connecticut Yankee Atomic Power Co. *and* Local 457, International Brotherhood of Electrical Workers, AFL–CIO.** Case 34–CA–6322

July 26, 1995

## DECISION AND ORDER

BY MEMBERS STEPHENS, COHEN, AND TRUESDALE

On September 20, 1994, Administrative Law Judge Stephen J. Gross issued the attached decision. The General Counsel filed exceptions and a supporting brief, and the Respondent filed an answering brief.

The Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions, but only for the reasons detailed below, and to adopt the recommended Order.

The issue in this case is whether the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to furnish information requested by the Union. We find that the Respondent did not violate the Act. The pertinent facts are as follows.

The Respondent operates a nuclear power plant in Haddam Neck, Connecticut. Since 1967, the Union has been the exclusive representative of the Respondent's employees working at the Haddam Neck plant except for the guards, professional employees, clerical employees, and supervisors. The current collective-bargaining agreement between the Respondent and the Union,[1] as well as their prior contracts, contains a provision (art. XXII) that permits the contracting out of unit work unless the arrangement ''would result in a loss of continuity of employment or opportunities for permanent promotions'' for unit employees.[2]

For the last several years, the Respondent has contracted with Bartlett Services, Inc., to provide technical staff (commonly referred to as HPTs)[3] to augment its regular work force during an ''outage'' at the plant.[4] The Union has long been aware that the Respondent uses the Bartlett HPTs in this manner and that the Respondent's position regarding this arrangement has always been that the Bartlett personnel are not part of the established bargaining unit and are outside the scope of the union contracts. The record shows that the Respondent's use of outage contractors was not a subject of controversy between the parties until the spring of 1993.

In the spring of 1993,[5] the Union sought extensive information from the Respondent regarding its relationship with Bartlett and the terms and conditions of employment of Bartlett's HPTs working at the Haddam Neck plant. At the same time, the Union also investigated on its own the working conditions of the Bartlett HPTs at the Haddam Neck plant. As more fully discussed by the judge, this investigation suggested that the Respondent may have a meaningful role in hiring, supervising, and disciplining the Bartlett HPTs and in determining their job assignments, work hours, and work locations.[6]

The Union's information request to the Respondent was initiated by IBEW Organizer Richard Crawshaw in February or March. Crawshaw testified that after the IBEW's recent efforts to organize the HPTs of outage contractors had failed,[7] he was no longer convinced, based on recent developments in some pending Board cases, that the power plant operators and outage contractors were separate employers. In those cases, it appeared that the power plant operator and the outage contractor were claimed to be joint employers.[8] This led Crawshaw to request that the Union send the May 20 form letter with an 8-page, 79-item questionnaire for the Respondent to complete.[9]

In its May 20 letter to the Respondent, the Union stated, inter alia, that the Respondent ''may be using non-bargaining personnel to perform work which is covered by our collective bargaining agreement'' and ''has retained or is operating such a nonunion company known as Bartlett Nuclear Company.'' The letter also indicates that the Union ''believe[d] that there is a connection between [the Respondent] and [Bartlett], either financially or through management personnel, or both'' and that ''the object of utilizing Bartlett Nuclear

[1] This contract is effective March 1993 to March 1996. The bargaining leading to the execution of this agreement, however, was not completed until April 1993.

[2] Art. XXII provides: Work regularly performed by employees covered by this Agreement will not be contracted out if it would result in loss of continuity of employment or opportunities for permanent promotions to job classifications covered by this agreement.

[3] The judge found that the term HPTs refers to individuals trained as health physics technicians, radiation waste technicians, and chemical technicians.

[4] An ''outage'' is a scheduled, periodic shutdown of the plant for maintenance and repair services. As indicated by the judge, it is a common practice among power plant operators throughout the country to obtain additional personnel from outside contractors during an outage.

[5] All dates are in 1993 unless otherwise indicated.

[6] Based on the record, the judge found that the Respondent usually uses the Bartlett HPTs only for relatively brief timespans, which is typically 10 weeks during an outage. The judge found that there was no substance to the Union's claimed fear that some Bartlett HPTs remained continuously employed at Haddam Neck for as long as 3 years.

[7] Commencing in 1988, the IBEW attempted to organize, albeit unsuccessfully, the HPTs of outage contractors, including Bartlett, who supplied labor to power plant operators.

[8] The pertinent details of those cases are highlighted in sec. I of the judge's decision. Those cases did not involve the Respondent.

[9] The relevant portions of the Union's May 20, July 19, and September 27 letters to the Respondent are set forth in sec. V of the judge's decision. The questionnaire is attached as App. A to his decision.

Company is to circumvent the provisions of our collective bargaining agreement.'' This letter further identifies the reason underlying the Union's information request as a desire ''[t]o determine the appropriateness of a grievance and/or to determine whether these matters can be resolved in negotiations in a timely manner . . . .''[10]

By letter dated June 22, the Respondent responded to the May 20 letter by forwarding some of the information requested; however, most of the items in the questionnaire remained unanswered.[11] In its response to the Union, the Respondent denied any financial or management connection between the Respondent and Bartlett and also pointed out that the ''nature of the contracting relationship between [the Respondent] and [Bartlett] is well known to the Union.'' The Respondent further stated that the questionnaire was burdensome.

Shortly thereafter, the Union clarified why it was interested in the requested information. In its July 19 letter to the Respondent, the Union stated that the requested information was ''necessary for the Union to determine whether or not the agreement has been violated and whether or not a grievance should be filed.''[12] In its September 27 letter in response to the Respondent's August 30 letter, the Union stated that it believed that the Respondent and Bartlett were joint employers and, on that basis, the Union claimed that Bartlett was subject to the existing collective-bargaining agreement.[13] The Union again claimed it needed the information to determine whether its contract had been violated.

Prior to May 20, the Union never asserted nor proposed that the terms of its collective-bargaining agreement with the Respondent be extended to the Bartlett HPTs. During the parties' recent contract negotiations, which were concluded in April, the Union never proposed any modification of article XXII or complained about the Respondent's arrangement with Bartlett. In fact, the Union has never filed a grievance concerning the Respondent's use of the Bartlett personnel. Finally, throughout the period when the Bartlett HPTs have been supplied to the Respondent, the number of bargaining unit employees at the Haddam Neck plant has substantially increased.

The complaint alleges that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to provide all the information requested by the May 20 questionnaire which is necessary for, and relevant to, the Union's performance of its duties as the exclusive representative of the Respondent's unit employees. The judge dismissed the complaint in its entirety. In finding no violation, the judge correctly acknowledged that the burden was on the Union to show relevance when, as here, the information it requested concerned matters outside the bargaining unit.[14] The judge also correctly concluded that based on the evidence the Union did not satisfy this burden. In adopting the judge's ultimate conclusion, however, we do not agree with all of his analysis. For the reasons below, we find that the requested information was not shown to be relevant to the administration of the current contract, bargaining for possible contract modifications, or any other representative functions. Therefore, the Respondent was not required to provide the information requested by the Union's May 20 questionnaire.

Like the judge, we find that the Union's information request was prompted by a reasonable belief that the Respondent and Bartlett may be joint employers. This belief was supported by (1) the Union's own investigation of the working conditions of the Bartlett HPTs at the Haddam Neck plant and (2) the claims of joint employer status for similar power plant operators and outage contractors reflected in the recent Board cases identified by Crawshaw. Unlike the judge, however, we find it unnecessary to pass on whether the Union could have also reasonably suspected an alter ego or single employer relationship between the Respondent and Bartlett. The record shows that this was not the Union's position at the relevant time. Rather, the cases identified by Crawshaw and the Union's correspondence to the Respondent, particularly in its September 27 clarification, show that the Union's pursuit of its information request was triggered by a belief that the two companies were joint employers and that the requested information was needed in view of that purported joint employer relationship.[15] Therefore, in this

[10] In this regard, the letter states that the Respondent's use of Bartlett personnel ''may violate a number of articles and provisions of our collective bargaining agreement, therefore, we must determine at the outset the necessity for grieving as well as whether the issue of erosion of bargaining unit work should be addressed in collective bargaining negotiations or elsewhere.''

[11] By letters dated August 30, and October 22, 1993 and January 28, 1994, the Respondent further responded to the Union's information request and furnished to the Union a copy of certain portions of its contract with Bartlett.

[12] In this connection, the Union stated in its July 19 letter that the contract's ''wages, fringe benefits, promotions, layoff-recall provisions, seniority, [and] bidding rights'' may have been denied to the Bartlett HPTs ''who may, in fact, be bargaining unit personnel.''

[13] The September 27 letter reads, in pertinent part:

> The Union believes that [the Respondent] and Bartlett Nuclear are *joint employers* of employees engaged in the performance of work covered by the union's collective bargaining agreement. This conclusion is the result of a number of NLRB cases regarding Bartlett and other like contractors which occasioned our further investigation into this matter. Although [the Respondent] has always represented to the union that Bartlett is just another independent contractor and thus is not subject to the union's collective bargaining agreement, we now believe otherwise. [Emphasis added.]

[14] See *Knappton Maritime Corp.*, 292 NLRB 236, 238 (1988).

[15] We find no merit in the General Counsel's argument that the Union's correspondence to the Respondent indirectly expressed a

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context, we will examine whether the Union has satisfied its burden of establishing the relevance of the requested information.

In *Shoppers Food Warehouse Corp.*, 315 NLRB 258, 259 (1994), a case relied on by the General Counsel, we recently reaffirmed that

> [t]he Board uses a broad, discovery-type standard in determining relevance in information requests, including those for which a special demonstration of relevance is needed, and potential or probable relevance is sufficient to give rise to an employer's obligation to provide information. . . . In this regard, the Board does not pass on the merits of a union's claim of breach of a collective-bargaining agreement in determining whether information relating to the processing of a grievance is relevant. [Citations omitted.]

Applying these principles, we reject the General Counsel's position that the Union established that the requested information was relevant to the Union's grievance processing and collective-bargaining functions. If the Respondent and Bartlett are joint employers, then it does not follow that the Bartlett HPTs are automatically included in the same unit with the Respondent's employees and subject to the 1993–1996 agreement. The General Counsel even acknowledged such when he noted that under current Board precedent employees of a joint employer will not be combined with employees of a single employer in a single unit, unless the parties consent. See *Brookdale Hospital Medical Center*, 313 NLRB 592 (1993); *Lee Hospital*, 300 NLRB 947 (1990); and *Greenhoot, Inc.*, 205 NLRB 250 (1973). Here, the record clearly shows that the Respondent has never consented to a single unit combining its unit employees with the Bartlett HPTs. Thus, the Union's purported need for the requested information to address a concern that ''wages, fringe benefits, promotions, layoff-recall provisions, seniority, bidding rights, and all other parts of the collective-bargaining agreement . . . may have been denied to these, so called contract employees who may, in fact, be bargaining unit personnel'' is unfounded. In sum, the suspected joint employer situation makes the finding of relevance on the basis of the Union's concern about contract breaches of this kind unsupportable.[16] See *Detroit Edison Co.*, 314 NLRB 1273 (1994).

We further reject the General Counsel's position that the Union's stated concern about potential erosion of unit work effectively made its information request relevant to the Union's articulated desire ''to determine the appropriateness of a grievance and/or to determine whether these matters can be resolved in negotiations in a timely manner.'' As noted above, article XXII of the 1993–1996 contract, as well as past contracts, permits the Respondent to subcontract unit work to outage contractors unless this arrangement results in ''loss of continuity of employment or opportunities for permanent promotions'' for unit employees. The evidence submitted was insufficient to support a reasonable belief that the Respondent's use of the Bartlett HPTs contravened the specified conditions placed on the Respondent's ability to unilaterally subcontract work pursuant to article XXII. In fact, as found by the judge, throughout the period when Bartlett HPTs have been supplied to the Respondent, bargaining unit positions have substantially increased in number. Moreover, there was no contention that unit employees have suffered any loss of continuous employment or permanent promotional opportunities at the Haddam Neck plant. The Union has never filed a grievance concerning the Respondent's use of the Bartlett personnel.

Furthermore, we observe that no midterm reopener provision was in evidence; neither party had announced any intention of asking for midterm negotiations; and negotiations for a successor agreement were not due to occur in the near future. The 1993 contract negotiations had just been concluded, and the current contract is not due to expire until March 1996.

Finally, the General Counsel argues that the Union needs the requested information to ascertain whether article XXII was intended to apply to a joint employer situation. We find no merit to this argument. The Respondent's use of Bartlett HPTs was not a recent phenomenon. The Union has known about the Respondent's arrangement with Bartlett for many years, yet prior to May 20 the Union has never asserted or proposed that the terms of its collective-bargaining agreement with the Respondent be extended to the Bartlett HPTs. During the 1993 contract negotiations, which were concluded in April after Crawshaw had already initiated the idea of the information request with the Union, the Union never proposed to the Respondent any modification of article XXII or complained about the Respondent's implementation of article XXII as it pertained to the subcontracting of unit work to Bartlett. Under these circumstances, the Union has failed to establish that the requested information was potentially or probably relevant to bargaining for possible contract modifications or potential grievance filing.[17]

concern that the Respondent was the ''sole'' employer of the Bartlett HPTs. Rather, we find that any ambiguity, in the Union's initial letter to the Respondent, describing its concerns about the relationship between the Respondent and Bartlett was eliminated by the clear reference, in the September 27 letter, to joint employer status only.

[16] We do not pass on whether the requested information should be revealed for any future grievances or for different purposes related to the Union's collective-bargaining representative role if the Union's suspicions about the relationship between the Respondent and Bartlett should change.

[17] Our holding does not foreclose the Union from establishing the relevance of the requested data on some future occasion, if timing and circumstances link it to the formulation of contract modifications

For all the foregoing reasons, we find that the Respondent did not violate Section 8(a)(5) and (1) of the Act, as alleged by the complaint. Accordingly, we shall dismiss the complaint in its entirety.

## ORDER

The recommended Order of the administrative law judge is adopted and the complaint is dismissed.

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or to the development of bargaining positions during negotiations. See *Shoppers Food Warehouse Corp.*, 315 NLRB at 259–260; *Detriot Edison Co.*, 314 NLRB 1273, 1275 fn. 10 (1994).

*Craig L. Cohen, Esq.*, for the General Counsel.
*Kevin D. O'Leary, Esq. (Cummings & Lockwood)*, of Hartford, Connecticut, for the Respondent.

## DECISION

### STATEMENT OF THE CASE

STEPHEN J. GROSS, Administrative Law Judge. The Respondent, Connecticut Yankee Atomic Power Co. (Connecticut Yankee or the Company), operates a nuclear power plant in Haddam Neck, Connecticut.[1] Local 457 of the International Brotherhood of Electrical Workers, AFL–CIO represents many of Connecticut Yankee's employees. (I will refer to the Local Union as Local 457 and to the International Union as the IBEW.)[2]

Like other operators of nuclear power plants in the United States, about every 18 months Connecticut Yankee shuts down its plant for about 10 weeks to perform extensive maintenance. The nuclear power industry refers to these maintenance periods as ''outages.'' Connecticut Yankee needs far more workers during outages than when the power plant is operating normally. Connecticut Yankee gets these workers from a company called Bartlett Nuclear, Inc. Connecticut Yankee deems such workers to be employees of Bartlett, not Connecticut Yankee.

In a May 20, 1993 letter to Connecticut Yankee, Local 457 expressed concern about this use by Connecticut Yankee of personnel supplied by Bartlett and asked the Company to provide information about the Connecticut Yankee-Bartlett relationship and about the personnel whom Bartlett supplies to Connecticut Yankee. Local 457 attached an 8-page, 79-item, questionnaire.[3] (That questionnaire is attached to this decision as an appendix.)

A month later Connecticut Yankee provided some of the requested information. But the Company made no attempt to respond to Local 457's questionnaire question by question. And most of Local 457's questions remained unanswered. Thereafter Local 457 withdrew some of its questions and Connecticut Yankee provided some additional information. But the Company has yet to provide anything even close to all of the information still requested by Local 457. The General Counsel contends that Connecticut Yankee has thereby violated Section 8(a)(5) and (1) of the Act.[4]

### I. THE IBEW'S ATTEMPT TO ORGANIZE THE EMPLOYEES OF OUTAGE PERSONNEL CONTRACTORS

Connecticut Yankee is not alone in needing more personnel during outages than during normal operations. All nuclear power plant operators do. Many of the electric utilities that operate such plants, perhaps all of such utilities, obtain these additional personnel from about eight companies in the business of providing personnel to utilities during nuclear power plant outages. Bartlett is one of the eight. (I will refer to such companies as outage personnel contractors.)

The record is murky about the kinds of work done by these additional personnel during outages. But it appears that most of such work calls for people trained as ''health physics technicians,'' ''radiation waste technicians,'' and ''chemistry technicians.'' It also appears that the industry commonly refers to all three kinds of technicians, generically, as ''HP techs'' or ''HPTs,'' and I will use the latter abbreviation (HPT) in that manner in this decision.

Bartlett and the other seven outage personnel contractors together employ a total of approximately 4000 HPTs who travel around the United States working at the various nuclear power plants during outages.[5] These HPTs are a peripatetic bunch, not only in terms of the locations of their work, but also in terms of the outage personnel contractors by whom they are employed. Thus, an HPT who is sent to a California nuclear power plant by, say, Bartlett during one outage might, after that outage ends, sign up with another—say GTS/Duratek—for work in Michigan.

In 1988 the IBEW began organizing campaigns among the HPTs employed by the outage personnel contractors, all of which contractors were nonunion. Ultimately that led the IBEW to call a national strike, in March 1990, of all of the outage personnel contractors' HPTs. The IBEW lost at every one of the strike locations. (At each of the sites the IBEW made an unconditional offer, on behalf of the HPTs, to return to work.)

A number of unfair labor practice cases arose out of these strikes and their aftermaths.

One involved Bartlett and Pacific Gas & Electric (PG&E) Company's Diablo Canyon nuclear power plant. See *Bartlett Nuclear*, 314 NLRB 1 (1994). Bartlett employees working at

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[1] Connecticut Yankee admits that it is an employer engaged in commerce within the meaning of Sec. 2(2), (6), and (7) of the National Labor Relations Act.

[2] Local 457 is the exclusive collective-bargaining representative of all of Connecticut Yankee's employees employed at the Company's Haddam Neck plant except for guards, professional employees, and clerical employees.

[3] Actually, although the numbering in the questionnaire ends with 79, there are only 78 numbered items. (The number 25 is missing.) On the other hand, many of the items include more than one request for information.

[4] The IBEW filed the unfair labor practice charge that began this case on September 17, 1993. The complaint issued on November 1, 1993. The complaint alleges that information requested by the following items of the questionnaire is necessary for and relevant to Local 457's performance of its duties as the representative of the unit: 7 through 14, 16, 17, 19, 22, 23, 24, 26, 30 through 48, and 50 through 79. I heard the case in Hartford, Connecticut, on June 22, 1994. The General Counsel and Connecticut Yankee thereafter filed briefs.

[5] As will be discussed later in this decision, there are issues concerning whether HPTs are in fact ''employees'' of outage personnel contractors, within the meaning of the Act. Nothing in this decision is intended to be construed as a finding that HPTs are, or are not, employees of outage personnel contractors for purposes of the Act.

the Diablo Canyon plant during an outage went out on strike. Bartlett thereupon told the strikers that, inter alia, unless they returned to work by a specified date their jobs would be ''abolished.'' At that hearing Bartlett contended that it had no choice in the matter because it was PG&E that had made the decision to abolish the strikers' jobs. The Board, however, concluded that Bartlett had violated the Act. (The lawfulness of PG&E's actions was not at issue.) Of particular relevance here is that the facts as found by the administrative law judge (in a decision that issued in September 1992) at least arguably add up to PG&E being a joint employer, with Bartlett, of the employees supplied by Bartlett. (An IBEW official here testified that, in the Bartlett case, a Bartlett official testified that all that Bartlett did in respect to the Diablo Canyon plant ''was provide bodies.'' But the significance of that testimony is diminished by the fact that it was in support of Bartlett's position that it should not be held responsible for the statements and actions taken in respect to the strikers. In any event, the Board concluded that Bartlett did employ the strikers.)

Another Board case involved GTS/Duratek—which, like Bartlett, is in the business of providing HPTs to nuclear power plants—and the operator of a nuclear power plant in Michigan, Consumers Power Company. The IBEW filed its charge against both GTS/Duratek and Consumers Power, as joint employers. The case settled when (according to the testimony in this proceeding by an IBEW official), both GTS/Duratek and Consumers Power agreed to post notices and the utility agreed to pay $10,000 each to five HPTs who, although employed at the utility's nuclear power plant, were nominally employees of GTS/Duratek. The IBEW interpreted the utility's willingness to post a notice and to make such payments to be an indication that, in the very least, the HPTs purportedly employed by GTS/Duratek were also employees of the utility.

In a case unrelated to the strikes in 1990 called by the IBEW, the IBEW sought to represent the employees of an outage personnel contractor (GTS/Duratek) who were working at the Shoreham nuclear power plant. See the Decision and Order of the Regional Director for Region 29 dated January 11, 1993 in Case 29–RC–8038.[6] The Shoreham plant was being decommissioned by the Long Island Power Association (LIPA), an agency of the State of New York. GTS/Duratek had contracted with LIPA to provide HPTs to augment LIPA's employees.[7] In the resulting representation case, the Regional Director concluded that GTS/Duratek and LIPA were joint employers. The case was thereupon dismissed because ''GTS/Duratek shares the [Sec. 2(2)] exemption with LIPA.'' But the Regional Director also concluded that GTS/Duratek exercised sufficient authority over the employees that

> absent a finding that the Employer [GTS/Duratek] is a joint employer with LIPA, I would find that the Board could assert jurisdiction over the Employer because the Employer can otherwise engage in meaningful collective bargaining with a labor organization.

Subsequently Bartlett replaced GTS/Duratek at the Shoreham plant, the employees at the Shoreham plant who had been employed by GTS/Duratek became employees of Bartlett and, as a result of action by the State of New York, the IBEW became the collective-bargaining representative of those employees.

## II. THE IBEW'S DECISION TO DEMAND INFORMATION FROM THE NUCLEAR POWER PLANT OPERATORS

Richard Crawshaw is an organizer for the IBEW. He testified that in late 1992 or early 1993 he and other IBEW officials came to the conclusion—based on the Diablo Canyon, Shoreham, and other such cases—that outage personnel contractors might be merely the agents of the electric utilities that operate nuclear power plants. The utilities, that is to say, might well be the actual employers of HPTs who purportedly were employed by the outage personnel contractors. Crawshaw went on to testify that that led him, in early 1993, to draft a 79-question questionnaire and a covering letter designed to be sent to all utilities that operate nuclear power plants.

In February or March 1993 Crawshaw sent copies of the questionnaire to each of the IBEW locals that represented the employees of such utilities and instructed the local unions to forward the questionnaire to the utilities and demand that the utilities respond to the questionnaire.[8]

## III. THE RELATIONSHIP BETWEEN BARTLETT NUCLEAR, CONNECTICUT YANKEE, AND THE BARTLETT-SUPPLIED HPTS

Connecticut Yankee employs about 15 HPTs on a full-time basis as members of the bargaining unit. During Connecticut Yankee's last outage prior to the hearing, Bartlett supplied about 50 HPTs to augment Connecticut Yankee's work force. As noted earlier, Connecticut Yankee considers the Bartlett-supplied HPTs to be employees of Bartlett, not Connecticut Yankee. But it is altogether clear that a union could reasonably conclude that Connecticut Yankee is indeed the employer of the HPTs that Bartlett supplies, albeit, perhaps, jointly with Bartlett.

During the hearing Connecticut Yankee chose to avoid calling witnesses familiar with the work at Connecticut Yankee of the Bartlett-supplied HPTs. But Local 457's business manager, Joseph Kelly, testified about conversations he had with employees of Connecticut Yankee concerning these HPTs. (Given that Kelly's testimony about the circumstances of the Bartlett-supplied HPTs at Connecticut Yankee was based largely on what others told him, I have used his testimony only to determine what he could reasonably believe about those circumstances.)

[6] In the transcript of the hearing here and in the parties' briefs, the Company that I call ''GTS/Duratek'' is referred to variously as ''GTS/Duratech'' and ''General Technical Services.'' My usage follows that of the Regional Director in the cited Decision and Order.

[7] Specifically, GTS/Duratek provided ''health physics, chemistry, and decontamination personnel services.'' *Shoreham* decision Case 29–RC–8038 at 5 (1993)(not reported in Board volumes).

[8] According to testimony here, refusals by the utilities to provide the requested information have led to unfair labor practice charges against the following employers (in addition to Connecticut Yankee): GPU Nuclear (Case 4–CA–21895); Public Service Electric & Gas of New Jersey (Case 4–CA–22519); Duquesne Light (Case 6–CA–26328); Georgia Power (Case 10–CA–27563); and Vermont Yankee (which has no connection with Connecticut Yankee). All of these cases involve Bartlett as the outage personnel contractor.

According to Kelly, Bartlett provides Connecticut Yankee with resumes and background information about HPTs whom Bartlett is in a position to supply to Connecticut Yankee. Connecticut Yankee then reviews the resumes and selects the HPTs it desires. Once at Connecticut Yankee's facility, the Bartlett-supplied HPTs do basically the same kind of work ordinarily done by the HPTs who are permanently employed at Connecticut Yankee, working along side bargaining unit members. Connecticut Yankee determines the hours of work and work locations of the Bartlett-supplied HPTs. Connecticut Yankee supplies the equipment such HPTs need to carry out their duties. Additionally, the Bartlett-supplied HPTs are supervised by Connecticut Yankee personnel, not by Bartlett supervisors. (This last facet of Kelly's testimony is supported by information that Connecticut Yankee provided to Local 457. In the words of Connecticut Yankee's June 22 letter to Local 457, the Bartlett-supplied HPTs ''are given their assignments and are monitored by Connecticut Yankee supervisors.'')[9]

Finally, in Connecticut Yankee's contract with Bartlett, Connecticut Yankee specifies the qualifications that the Bartlett-supplied HPTs must meet. Those qualifications include the requirement that the Bartlett-supplied HPTs ''meet all the requirements of [Connecticut Yankee] health physics technicians that qualify them for shift rotation.''

The record indicates that, although there may possibly be exceptions, Connecticut Yankee uses the Bartlett-supplied HPTs only for relatively brief timespans—typically the 10 weeks or so of an outage, and that the IBEW and Local 457 understand that to be the case. But according to what Connecticut Yankee employees told Kelly, at least some of such HPTs are ''repeaters''; that is, they have worked at Connecticut Yankee during more than one outage. Additionally, again according to what a Connecticut Yankee employee told Kelly (at some point after Local 457 had made its information request), some Bartlett-supplied HPTs stay on at Connecticut Yankee for as much as 3 years. In light of the record here, that seems to me to be implausible. But Kelly seems to believe it.

Connecticut Yankee pays Bartlett for the work of the Bartlett-supplied HPTs in accordance with the contract between Bartlett and Connecticut Yankee. Bartlett, in turn, pays such HPTs. There is no reason to believe that the compensation of the Bartlett-supplied HPTs matches the terms of the Connecticut Yankee-Local 457 collective-bargaining agreement.

## IV. LOCAL 457'S PAST POSITION CONCERNING CONNECTICUT YANKEE'S USE OF BARTLETT-SUPPLIED HPTS

Local 457 has represented Connecticut Yankee's bargaining unit members since 1967. Local 457 has long been aware that during outages Connecticut Yankee obtains the use of HPTs supplied by Bartlett and that Connecticut Yankee's position is that such personnel are not part of the bargaining unit. As far as Kelly knows, Local 457 has never asserted that such personnel should be considered bargaining unit members, has never proposed that the terms of the Connecticut Yankee-Local 457 collective-bargaining agreement be extended to such personnel, and has never filed a grievance on behalf of such personnel or by reason of Connecticut Yankee's use of Bartlett-supplied personnel.

The collective-bargaining agreements between Local 457 and Connecticut Yankee have long provided that

> Work regularly performed by employees covered by the Agreement will not be contracted out if it would result in loss of continuity of employment or opportunities for permanent promotions to job classifications covered by this agreement.

That provision is article 22 of the current agreement. Local 457 agrees that the intent of the provision is to permit Connecticut Yankee to contract out work except under the conditions specified in the provision. Local 457 also agrees that Connecticut Yankee's use of Bartlett-supplied HPTs has met the requirements of article 22.

The current collective-bargaining agreement between Local 457 and Connecticut Yankee covers the period March 1993 to March 1996. The bargaining leading to the execution of the agreement was not completed until April 1993. During that bargaining, Local 457 did not propose that article 22 be changed in any respect.

## V. LOCAL 457'S INFORMATION REQUESTS AND THE COMPANY'S RESPONSE

The focus of this part of this decision is: (1) what information did Local 457 request; (2) what reasons did Local 457 give to Connecticut Yankee for wanting the requested information; and (3) what was the Company's response. That requires me, unfortunately, to quote large portions of the correspondence between Local 457 and Connecticut Yankee.

On May 20, 1993, Local 457 sent the following letter to Connecticut Yankee:

> Local 457, International Brotherhood of Electrical Workers is investigating the extent to which Connecticut Yankee Atomic Power Company may be using nonbargaining unit personnel to perform work which is covered by our collective bargaining agreement. We are aware of the increasing practice among union-represented utilities to contract with nonunion employers or worker referral agencies to furnish personnel to perform bargaining unit work without extending to these personnel the guarantees, safeguards, rights, privileges, fringe benefits, and layoff-recall provisions of the collective bargaining agreement and without granting bargaining unit employees the first opportunities to fill these jobs.
>
> These nonunion operations erode the bargaining unit, endanger the financial integrity of negotiated wages and fringe benefits, and threaten union members' jobs. These nonunion operations may violate a number of articles and provisions of our collective bargaining agreement; therefore, we must determine at the outset the necessity for grieving as well as whether the issue of erosion of bargaining unit work should be addressed in collective bargaining negotiations or elsewhere.

[9] Kelly testified that during outages Bartlett maintains a site coordinator at the Connecticut Yankee facility. Connecticut Yankee provides the site coordinator with office space on Connecticut Yankee's premises. But the site coordinator does not oversee any employees; rather, the site coordinator performs administrative work.

> It has come to our attention that Connecticut Yankee Atomic Power Company has retained or is operating such a nonunion company known as Bartlett Nuclear Company. We believe that there is a connection between Connecticut Yankee Atomic Power Company and Bartlett Nuclear Company, either financially or through management personnel, or both, and we believe the object of utilizing Bartlett Nuclear Company is to circumvent the provisions of our collective bargaining agreement. As part of our investigation of this matter, we are contacting you directly for pertinent information.
>
> To determine the appropriateness of a grievance and/or to determine whether these matters can be resolved in negotiations in a timely manner, we require a response to the attached questionnaire within two weeks of the date of receipt of this letter. If you are unable to provide all the information requested, please provide all the information you can and state under oath why you cannot furnish the rest.

The 79-item questionnaire (see attached appendix) was enclosed with the letter.

The letter and the questionnaire had been drafted by the IBEW. Local 457 personnel retyped the letter onto Local 457 stationery in accordance with the IBEW's instructions. Kelly, without giving any thought to whether he agreed with the letter's contentions or whether any of the requested information would be of any use to Local 457, signed the letter and forwarded it and the questionnaire to Connecticut Yankee.

Prior to sending the draft letter and questionnaire to Local 457, the IBEW had not investigated the facts of the relationship between Connecticut Yankee and Bartlett (as opposed to the relationship between Bartlett and nuclear power plant operators generally) and had not considered whether there were any terms in the Connecticut Yankee-Local 457 collective-bargaining agreement that might be relevant to Connecticut Yankee's use of Bartlett-supplied personnel.

Connecticut Yankee responded to the information request by letter dated June 22. The Company wrote:

> This is in response to your letter of May 20, 1993, and the attached questionnaire. In justifying the presentation of the 78 question inquiry to the Company, you stated that the Union believes that there is a financial or management connection between Connecticut Yankee Atomic Power Company and Bartlett Nuclear, Inc. As explained below, there is no reasonable basis for this belief. Please consider the following:
>
> 1. Neither Connecticut Yankee Atomic Power Company nor any Northeast Utilities subsidiary has any ownership interest in Bartlett Nuclear.[10]
>
> 2. Bartlett Nuclear Company has no ownership interest in Connecticut Yankee Atomic Power Company or any subsidiary of Northeast Utilities.
>
> 3. The employee and labor relations functions for Connecticut Yankee and Bartlett Nuclear are entirely separate.
>
> 4. The Companies do not share offices or management functions.
>
> 5. Bartlett Nuclear Company provides trained, skilled workers to perform certain limited functions on a temporary basis, typically during outages. While performing jobs at Connecticut Yankee, these temporary workers are given their assignments and are monitored by Connecticut Yankee supervisors.
>
> 6. No Connecticut Yankee employee has ever been laid off because of work performed by Bartlett Nuclear employees.
>
> 7. The services of Bartlett Nuclear have been utilized for a number of years by Connecticut Yankee with the full knowledge of the Union. The activities of the Bartlett Nuclear employees are well known to Union officials.
>
> 8. Given the need to locate and utilize skilled workers on a temporary basis during outages and given the need to avoid repeated short-term hirings and subsequent layoffs associated with temporary work, the use of Bartlett Nuclear employees has been a practical necessity for the Company.
>
> In short, there is no financial or management connection between Connecticut Yankee and Bartlett Nuclear. The nature of the contracting relationship between Connecticut Yankee and Bartlett Nuclear is well known to the Union. Accordingly, it would not appear to be either reasonable or necessary for the Union to seek answers to the burdensome list of questions attached to your letter. Given the information in this letter and your ongoing knowledge of the operations of Connecticut Yankee, I trust that you will find this response sufficient for your purposes.

Kelly began an investigation of the relationship between Connecticut Yankee and Bartlett sometime after he received this letter from the Company. As indicated earlier, Kelly's investigation amounted to asking members of the Connecticut Yankee bargaining unit what they knew about the Bartlett-supplied HPTs.

Kelly had forwarded Connecticut Yankee's June 22 letter to the IBEW. The IBEW drafted a response which, in accordance with earlier procedures, Local 457 retyped onto its own stationery and sent to Connecticut Yankee. The letter, dated July 19, reads, in pertinent part:

> In my [May 20] letter . . . I requested information necessary for the Union to determine whether or not the agreement has been violated and whether or not a grievance should be filed.
>
> Your letter claims that the employee and labor relations functions for Connecticut Yankee and Bartlett Nuclear are completely separate. However, you admit supervisory responsibilities over these non-bargaining unit personnel who are performing work covered by our collective-bargaining agreement. As stated in my information request letter, the articles and provisions of our collective-bargaining agreement the Union suspects may have been violated are those that refer to wages, fringe benefits, promotions, layoff-recall provisions, seniority, bidding rights, and all other parts of the collective-bargaining agreement which may have been denied to

[10] There are number of references to ''Northeast Utilities'' in the record. The reason for such references is unclear. The record does make it plain that Connecticut Yankee is affiliated in some fashion with Northeast Utilities. But the record does not further define the nature of that affiliation.

these, so called, contract employees who may, in fact, be bargaining unit personnel.

On August 20 Connecticut Yankee wrote to Local 457, explaining why the Company believed the information request ''does not appear to be either necessary or reasonable, particularly given the highly burdensome nature of the inquiries'' and refusing to provide further information.

Local 457 filed its unfair labor practice charge against Connecticut Yankee on September 17. Kelly again wrote to Connecticut Yankee 10 days later (and again, the letter had been drafted by the IBEW).

> This is in further reference to my letters to you of May 20 and July 19, 1993, regarding your relationship with Bartlett Nuclear.
>
> The Union believes that Northeast Utilities (Connecticut Yankee Atomic Power Company) and Bartlett Nuclear are joint employers of employees engaged in the performance of work covered by the union's collective bargaining agreement. This conclusion is the result of a number of NLRB cases regarding Bartlett and other like contractors which occasioned our further investigation into this matter. Although Northeast Utilities has always represented to the union that Bartlett is just another independent contractor and thus is not subject to the union's collective bargaining agreement, we now believe otherwise.
>
> Having considered your replies to my letters, at this time I wish to temporarily withdraw the following questions which were included with my letter to your of May 20, 1993: Question numbers 1, 9, 20, 21, 27, 28, 29, and 49.
>
> The Union wishes to emphasize its request, contained in question 17, for copies of all contracts and addendum between Connecticut Yankee and Bartlett Nuclear covering all past, present, and future work. If, upon receipt of these contracts, it is found by the union that they answer any of the questions posed in my letter of May 20, 1993, I will notify you that these questions are withdrawn.
>
> In regard to question 36, in addition to names and job classifications, the union wishes to expand its request to include dates of requests as well as dates of employment.[11]
>
> The Union requires this information immediately so it may make its own decision as to whether its contract has been violated. If you are unable to provide the information requested, please provide all of the information you can and state under oath why you cannot furnish the rest.

In October Connecticut Yankee did provide Local 457 with a copy of its contract with Bartlett, but with the ''pricing information'' removed ''because such information would not be relevant to your determination as to whether or not you believe [Connecticut Yankee] and Bartlett Nuclear are joint employers of Bartlett Nuclear's employees'' (to quote from Connecticut Yankee's letter to Kelly).[12]

In April 1994 Local 457 withdrew additional questions[13] but asked for the ''wage rates and per diem amounts which were removed'' by Connecticut Yankee from the copy of the Bartlett contract the Company had sent to Local 457.

Finally, at the hearing counsel for the General Counsel stated that the follow items of the questionnaire were no longer in dispute: 1 through 6; 15; 18, 20 and 21, 27 through 29, 37, 49, and 57 through 59.

## VI. CONCLUSION

When an employer has contractor-supplied employees working along side bargaining unit employees, doing the same work as bargaining unit employees, and supervised by the same supervisors as the bargaining unit employees, one might reasonably argue that the union that represents the members of the bargaining unit should always be entitled to information from the employer about the contract between the employer and the contractor and about the contractor-supplied employees, whether or not it has been demonstrated that the contractor-supplied employees should be deemed to be members of the bargaining unit. But that is not the current state of the law.

Rather, where a union seeks information about ''matters occurring outside the bargaining unit, the burden is on the union'' to demonstrate that the requested information is relevant ''to the proper performance of [the union's] duties as a collective-bargaining representative.'' *Knappton Maritime Corp*., 292 NLRB 236, 238 (1988). As for whether the employees about which a union seeks information are members of the bargaining unit, in circumstances such as those at hand it is up to the General Counsel to prove that the employees are members of the employer's bargaining unit. *Continental Winding Co*., 305 NLRB 122, 124 (1991).

My conclusion is that the record fails to show: (1) that the Bartlett-supplied HPTs are members of Connecticut Yankee's bargaining unit or even that Local 457 believes that those HPTs are members of the bargaining unit; or (2) that the requested information is relevant to Local 457's performance of its duties as the representative of the bargaining unit.

### A. *Items in the Questionnaire Seeking Information About the Terms of Employment of the Bartlett-Supplied HPTs and About Whether Such Personnel are Employees of Connecticut Yankee*

The questions in the questionnaire seek three kinds of information, broadly speaking. One kind has to do with the nature of the relationship between Connecticut Yankee, on the one hand, and, on the other, the HPTs whom Connecticut Yankee obtains from Bartlett. The second category has to do with the terms and conditions of employment of such work-

[11] On brief Connecticut Yankee contends that because the complaint ''was not amended to reflect the changes to [question 36] made after the Answer was filed. . . . the 'expanded' question 36 is not properly before the Board.'' Connecticut Yankee did not raise this contention at the hearing, and I consider it untimely.

[12] As the result of an ''administrative mistake'' on Connecticut Yankee's part, the Company failed to send all pages of the documents making up the contract between Connecticut Yankee and Bartlett. Prior to the hearing the Company did provide the IBEW and Local 457 with the missing pages. But the Company still refused to provide the Unions with the removed pricing information.

[13] Counsel for Local 457 advised that Connecticut Yankee need not respond to question 17, the first part of 37, 57, and the first part of 58 and 59.

ers. The third category concerns the nature of the relationship between Connecticut Yankee and Bartlett.

I first consider whether Connecticut Yankee should be required to respond to questions in either of the first two categories.

In its May 20 and July 19 letters to Connecticut Yankee, Local 457 contended that Connecticut Yankee's use of Bartlett-supplied personnel ''erode[s] the bargaining unit, endanger[s] the financial integrity of negotiated wages and fringe benefits, and threaten[s] union members' jobs.'' In addition, ''these nonunion operations may violate'' collective-bargaining agreement provisions relating to, among other things, ''wages, fringe benefits, promotions, layoff-recall provisions, seniority, [and] bidding rights.''

There has been no showing that Local 457's information request was based on any belief on the part of Local 457 that any of these contentions might be accurate. The IBEW drafted these letters with no knowledge of the particular circumstances prevailing within Connecticut Yankee's bargaining unit and with no consideration of the terms of the Local 457-Connecticut Yankee collective-bargaining agreement. Local 457 forwarded the letters to Connecticut Yankee without undertaking any evaluation of the accuracy of the contentions in the letters or of whether the information sought by the letters would in fact assist the Local in its representation of the members of the bargaining unit.

Additionally, Local 457's behavior is contrary to the position expressed in the letters. For as long as Kelly has been with Local 457, the Union has never filed a grievance regarding the use of contractor-supplied workers at Connecticut Yankee. Further, during the negotiations leading to the 1993–1996 collective-bargaining agreement, Local 457 did not propose that Connecticut Yankee reduce the extent to which the Company subcontracts out work even though Local 457 concededly knew about Connecticut Yankee's use of Bartlett HPTs.

Finally, as Local 457's officials knew at the time the information request was made, throughout the time that Bartlett has been supplying personnel to Connecticut Yankee, the number of bargaining unit employees has increased substantially.

Local 457's July 19 letter also states that the Bartlett-supplied workers ''may, in fact, be bargaining unit personnel.'' If Local 457 had reason to believe that this might be the case, the Union arguably would be entitled to answers to questions addressed to this issue. And Local 457 plainly has reason to believe that: (1) the Bartlett-supplied personnel perform the same kinds of work that some of Connecticut Yankee's bargaining unit employees do; and (2) such personnel may, for purposes of the Act, be employees of Connecticut Yankee.

But officials of both the IBEW and Local 457 know that Connecticut Yankee considers the Bartlett-supplied HPTs to be ''temporary workers,'' and that generally speaking, at least, HPTs supplied by outage personnel contractors work at nuclear power plants only during outages and in other similar circumstances. (Crawshaw's testimony specifically reflects that understanding.) They also know that any given HPT who comes to Connecticut Yankee via Bartlett is likely to work at other nuclear power plants before returning for another stint at Connecticut Yankee, even assuming that the HPT does work for Connecticut Yankee on more than one occasion.

In this connection, to determine whether an employee who does not work full-time for an employer should be considered part of the bargaining unit, one must consider not only the nature of the employee's work but, in addition

> factors such as regularity and continuity of employment . . . . ''The individual's relationship to the job must be examined to determined whether the employee performs unit work with sufficient regularity to demonstrate a community of interest with remaining employees in the bargaining unit.'' *Continental Winding Co.*, 305 NLRB 122, 124 (1991), quoting *Pat's Blue Ribbons*, 286 NLRB 918 (1987).

In that same vein, it must be shown that the employee ''worked continually and regularly for [the employer] with expectations of continued employment.'' Id.

The questionnaire is noteworthy for not asking any questions that might produce facts that would show, one way or the other, whether Bartlett-supplied unit work at Connecticut Yankee with any regularity, or otherwise ''demonstrate a community of interest'' with bargaining unit members, or have any ''expectations of continued employment.'' Thus, for example, the questionnaire does not ask for information about the length of time Bartlett-supplied HPTs work at Connecticut Yankee, or the extent to which the same Bartlett-supplied HPTs work for Connecticut Yankee outage after outage, or the extent to which such personnel apply for permanent positions with Connecticut Yankee, or the extent to which Connecticut Yankee looks to such personnel as a source for filling permanent positions.

Question 69 of the questionnaire does ask:

> Are employees of the nonunion company required to complete some type of time-worked report for use by your company?
>
> If so, please furnish copies of said reports.

If the question is read as asking for every ''time-worked report'' ever submitted to Connecticut Yankee by a Bartlett-supplied worker from the time Bartlett first began supplying workers to Connecticut Yankee to the present, if such workers do submit such reports, and if the Board were to require Connecticut Yankee to provide the reports to Local 457, the Union could determine (after some considerable tabulating effort) the lengths of time such personnel have worked at Connecticut Yankee and also could determine the extent to which the same personnel work for Connecticut Yankee outage after outage. But surely the point of the question is not to develop information about regularity of employment. There are far easier ways to get at that. Moreover if the question were to be read in that fashion, I would disallow it as needlessly burdensome.

Kelly testified that a Connecticut Yankee employee told him that some Bartlett-supplied personnel stay on at Connecticut Yankee for as long as 3 years. But Kelly heard about that only after he submitted the information request to Connecticut Yankee. And as just noted, the questionnaire does not ask for any information about that matter.

Lastly, the impression I got from listening to the various witnesses and considering the terms of Local 457's collec-

tive-bargaining agreement with Connecticut Yankee is that Local 457 is uninterested in raising any contention with Connecticut Yankee that the extra personnel brought in during outages are bargaining unit members.

### B. *Items in the Questionnaire Relevant to the Nature of the Relationship Between Connecticut Yankee and Bartlett*

As discussed above, many of the items in the questionnaire concern the nature of Bartlett's relationship with Connecticut Yankee. They ask for information relevant to whether Bartlett is an alter ego of Connecticut Yankee, is a single employer with Connecticut Yankee, is a joint employer with Connecticut Yankee, or is an agent of Connecticut Yankee.

As for any alter ego or single employer relationship, all of the information available to the IBEW at the time Crawshaw drafted the information request (and thereafter) indicated that neither is the case. (About these matters, of course, Local 457 knows only what the IBEW tells it.)

As for a joint employer or agency relationship, it must be kept in mind that it has not been shown that the Bartlett-supplied employees are members of the Connecticut Yankee bargaining unit. Nor has it been shown that Local 457 believes that Connecticut Yankee's use of Bartlett-supplied personnel has had, or may have, an adverse effect on bargaining unit employees. That being the case, I fail to see why information showing that either a joint employer or agency relationship exists between Connecticut Yankee and Bartlett would assist Local 457 in its role as representative of the bargaining unit employees. In that regard, Local 457 has not explained how, if the Bartlett-supplied employees are employees of Connecticut Yankee (albeit not members of the bargaining unit), it would make any difference to Local 457 that Bartlett also was an employer of such employees, or that Bartlett was an agent of Connecticut Yankee in respect to Connecticut Yankee's employment of such employees. And if the Bartlett-supplied HPTs are not employees of Connecticut Yankee, then Connecticut Yankee's relationship with Bartlett is obviously beside the point.

### C. *Does Local 457 Need Any of the Information for Bargaining Purposes or to Prosecute Grievances*

None of the requested information is relevant to any grievance that Local 457 has filed or is contemplating filing.

Nor does Local 457 need the information in connection with the negotiation of a collective-bargaining agreement. Recall that just weeks before Local 457 made the information request, it entered into a 3-year collective-bargaining agreement with Connecticut Yankee. The agreement's expiration date is March 1, 1996.

### D. *Other Matters*

Local 457 is the collective-bargaining representative of the employees in the Connecticut Yankee bargaining unit, not the IBEW. But the IBEW is in a position to provide research and strategic planning services that are beyond the resources and capabilities of individual IBEW local unions. Plainly those kinds of activities by the IBEW may often redound to the benefit of Local 457 and the employees it represents. Accordingly there may be occasions when the Act might obligate Connecticut Yankee to provide information in response to a query from Local 457 even though the Local has no immediate use for the information, if the information might be useful to the IBEW in ways that could ultimately benefit the members of the Connecticut Yankee bargaining unit. But here there has been no showing that the requested information would ever benefit the members of the Connecticut Yankee bargaining unit, even in that roundabout fashion.

A further matter of concern to me is that the letters sent to Connecticut Yankee were written as though drafted by Local 457 and as though they expressed Local 457's concerns. In fact: the letters were drafted by the IBEW which ordered the Local to send them to Connecticut Yankee without change (except for retyping onto Local 457 stationery); the letters did not express Local 457's concerns; and the IBEW made it clear to Local 457 that the Local was not being invited to exercise any independent thought about the information request. The letters, that is to say, were disingenuous.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[14]

## ORDER

The complaint is dismissed.

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[14] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

## APPENDIX

### Questionnaire

1. Describe the type of nuclear business in which your company engages.

Describe the type of business in which the nonunion company engages.

2. State the business address(es) and identify all office locations of your company where information on the nonunion company is located.

State the business address(es) and identify all office locations of the nonunion company.

3. Identify your company's business phone numbers and extensions used by the nonunion company.

4. Identify the banking institutions, branch locations, and account numbers of the nonunion company's accounts to which your company transfers funds.

5. Identify where and by whom your company's accounting records are kept which pertain to the nonunion company.

6. Identify where and by whom the nonunion company's accounting records are kept which pertain to work performed for your company.

7. Identify the carrier and policy number for your company's worker compensation policy.

Identify the carrier and policy number for the nonunion company's worker compensation policy.

8. Identify amount(s) involved, reason(s) for, and date(s) of transfer of any funds between your company and the nonunion company

9. Identify business(es) to whom our company rents, leases, or otherwise provides office space at nuclear sites.

10. Identify the calendar periods and term by which your company provides or has provided office space to the nonunion company.

11. Identify business(es) at nuclear sites that use your company's (a) tools or (b) equipment.

12. Identify business(es) at nuclear sites to whom your company sells, rents, or leases its (a) operating equipment, (b) office equipment, (c) radiation equipment, or (d) tools.

13. Regarding equipment transactions between your company and the nonunion, identify the purchase, rental, or lease rate, equipment involved, calendar period, and dollar volume of each transaction.

14. Identify those of the following services that are provided to the nonunion company by or at your company.

(a) administrative
(b) bookkeeping
(c) clerical
(d) detailing
(e) drafting
(f) engineering
(g) estimating
(h) managerial
(i) other

Identify those of the following services that are provided to your company by or at the nonunion company:

(a) administrative
(b) bookkeeping
(c) clerical
(d) detailing
(e) drafting
(f) engineering
(g) estimating
(h) managerial
(i) other

15. Identify those persons ho bid and or negotiate your company's work with the nonunion company.

Identify those persons who bid and or negotiate the nonunion company's work with your company.

16. Identify by calendar period, and dollar volume of any work which your company has contracted to, or received by contract from, the nonunion company.

17. Identify all past, present, and future contract work arrangement by written agreement between your company and the nonunion company.

Furnish copies of all such contracts and addendum.

18. State the reason or purpose of each contract let by your company to the nonunion company.

19. Identify work your company performs on the nonunion company's products or jobs.

Identify work the nonunion company performs on your company's products or jobs.

20. Identify by job title or craft position the number of employees employed by your company per pay period working at or performing work for your nuclear power plants.

Identify by job title or craft position the number of employees employed by the nonunion company per pay period working at or performing work for your nuclear power plants.

21. Identify the skills that your company's employees possess who perform work at your nuclear power plants.

Identify the skills that the nonunion company's employees possess who perform work at your nuclear power plants.

22. Identify your company's (a) supervisors, (b) job superintendents, and (c) forepersons or other supervisory persons with authority to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or responsible to direct employees, or to adjust their grievances, or to effectively recommend such action at your nuclear power plants.

Identify the nonunion company's (a) supervisors, (b) job superintendents, and (c) forepersons or other supervisory persons with authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsible to direct employees, or to adjust their grievances or to effectively recommend such action while performing work under contract with your company.

23. Identify your company's personnel who are or who have ever been authorized to supervise the nonunion company's employees.

Identify the nonunion company's personnel who are or who have ever been authorized to supervise your company's employees.

24. Identify by project involved, personnel involved and date of event, any occasion when the nonunion company's personnel performed a supervisory function for your company.

Identify by project involved, personnel involved, and date of event, any occasion when your company's personnel performed a supervisory function for the nonunion company.

[There is no number 25 in the questionnaire.]

26. Identify your company's representatives otherwise actively involved with day-to-day management or operation involving work performed by the nonunion company.

Identify the nonunion company's representatives otherwise actively involved with day-to-day management or operations involving work performed for your company.

27. Describe your company's compensation program including employee wage rates and assign specific hourly costs.

Describe the nonunion company compensation program including employee wage rates and assign specific hourly costs.

28. Describe your company's fringe benefits programs.

Describe the nonunion company's fringe benefits programs.

29. Describe your company's labor relations program.

Describe the nonunion company's labor relations program.

30. Describe the employment process for employees proposed for use on your property by the nonunion company.

31. Does the nonunion company submit resumes of their prospective employees to your company for review and approval or rejection.

32. Does your company review resumes of prospective employees submitted by the nonunion company and grant approval or denial for work at your facility?

33. Who reviews, approves, or rejects resumes of employees proposed to be employed by the nonunion company and what is their job title.

34. Who checks the references of employees whose resumes are provided to your company by the nonunion company?

35. Are all personnel working at nuclear plants subject to the initial acceptance or approval of your company?

36. Has your company ever asked the nonunion company to hire specific employees?

If so, please list by name and classification.

37. Does your company determine and establish the qualifications for each position that the nonunion company is to staff?

Can the nonunion company change these qualifications?

38. Does your company determine and control the number of job positions to be filled?

Does the nonunion company determine and control the number of job positions to be filled?

39. Are employees recommended for employment by the nonunion company for employment on the jobsite required to take a competency test given by your company?

If so, who administers and scores this test?

40. Can the nonunion company hire an employee and place that person on site without the approval of your company?

41. Does your company retain the right to approve or disapprove employment of persons proposed for employment on the jobsite by the nonunion company?

42. Is your company's existing work force augmented by the use of employees of the nonunion company?

43. Does your company conduct training for employees of the nonunion company?

44. Does the nonunion company conduct training for employees they assign to perform work for company?

If the above answer is yes, what training do they provide these employees?

45. Who designs or formulates the substance and materials used for the above training referred to in the two previous questions?

46. Should training be required which involves additional travel or living expenses, who pays these additional costs?

47. Does your company have the authority to select specific nonunion company employees for training?

48. How do your company's employees interrelate on the job with employees of the nonunion company?

49. What are the job functions of your company's employees who perform health physics type work?

What are the job functions of the employees of the nonunion company who perform health physics type work?

50. Does your company have the right to replace employees of the nonunion company with your own employees?

51. State the names, titles, and employers of all persons responsible for the direction and control of work performed by employees of the nonunion company.

52. State the names, titles, and employers of all persons who exercise day-to-day supervision of employees of the nonunion company.

53. State the full extent and limitations of authority of each of the supervisors named in response to the previous two questions.

54. Explain the primary function of the ''Site Coordinator'' employed by the nonunion company.

55. Does your company have the authority to terminate the services of an employee of the nonunion company?

56. Should your company ask for the termination of an employee of the nonunion company, under what conditions, if any, may the nonunion company refuse to comply?

57. Are employees of the nonunion company required to comply with work rules established by your company?

58. Are employees referred by the nonunion company subject to your company's ''fitness for duty'' policies?

May the nonunion company alter these policies?

Do such policies exceed the minimum requirements established by law?

59. Does your company have a drug and alcohol program?

Are employees of the nonunion company subject to the above program?

60. What protective gear such as anticontamination clothing, respiratory protection devices, ear protection, etc., is provided by your company to employees of the nonunion company?

What protective gear, such as that mentioned above, is provided by the nonunion company to its employees?

61. What other types of special tools or work equipment is furnished by your company to employees of the nonunion company?

62. What other types of special tools or work equipment is furnished by the nonunion company to its employees?

63. Who determines the starting and stopping times of shifts worked by employees of the nonunion company?

64. Who determines the number of shifts and shift days that will be worked by employees of the nonunion company?

65. Who has control over the number of hours employees of the nonunion company work?

66. Who determines the work to be performed and the job assignments of employees of the nonunion company?

67. Who approves overtime worked by employees of the nonunion company?

68. Does the nonunion company have any authority to authorize payment of overtime premiums without first obtaining approval from your company?

69. Are employees of the nonunion company required to complete some type of time-worked report for use by your company?

If so, please furnish copies of said reports.

70. Who approves for payment the hours stated on any time-worked reports that are required?

71. Does a contract between your company and the nonunion company establish the hourly salary rates, per diem, bonus and travel pay paid to employees of the nonunion company?

72. Should the nonunion company elect on its own, without prior approval, to pay higher salary rates, per diem, bonus or travel pay to its employees, could they recover such excess payments from your company?

73. State the amount and condition of any bonus paid employees of the nonunion company who complete their assignment at your facility?

What is the criteria, if any, that determines if employees of the nonunion company have completed their assignment?

Who established this criteria?

74. Who determines whether employees referred by the nonunion company have met the requirements to receive bonus money?

75. Does your company maintain records for use in payment of bonus money to employees of the nonunion company?

76. Should the nonunion company pay bonus money without the approval of your company, would your company cover the cost?

77. Who determines the number of employees of the nonunion company who will work on holidays?

78. In the event of a layoff, does your company retain authority to specify which employees will continue working and which employees of the nonunion company will be laid off?

79. Does your company retain authority to designate specific employees that the nonunion company is preclude from removing from the worksite without first obtaining permission from your company?